

APPEAL NO. 041950
FILED SEPTEMBER 22, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on July 12, 2004. The hearing officer resolved the disputed issue by deciding that the compensable injury of _____, does not include complex regional pain syndrome/reflex sympathetic dystrophy (CRPS/RSD) of the left lower extremity. The appellant (claimant) appealed, disputing the determination regarding the extent of injury and arguing that the evidence established she has CRPS/RSD. The respondent (carrier) responded, urging affirmance.

DECISION

Affirmed.

The parties stipulated that the claimant sustained a compensable injury on _____. At issue was whether the compensable injury included CRPS/RSD. Extent of injury is a factual determination for the hearing officer to resolve. The hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence, as well as the weight and credibility that is to be given to the evidence. Section 410.165(a). There was conflicting medical evidence on the disputed issue.

The claimant testified at the CCH that Dr. S did not physically examine her and argues on appeal that Dr. S “only” asked her questions. However, the medical report of Dr. S notes that the claimant did not have significant complaints of swelling and is not sensitive to touch. Dr. S further noted that there was no significant discoloration or temperature variation and that the texture of the skin has not changed. In his report, Dr. S opined that the claimant has “some autonomic small fibrous sensory symptoms somewhat suggestive of [CRPS/RSD], but in all medical probability, the extent of these symptoms and certainly the lack of sufficient objective physical examination evidence make [CRPS/RSD] less likely.” Additionally, the bone scan in evidence noted that “the findings are not felt to be compatible with [RSD].” Two separate peer reviews were also in evidence. One peer review concluded that the medical records did not demonstrate any objective evidence of CRPS/RSD and another opined that there was no objective evidence of pathology or conditions due to the compensable injury, which would result in the diagnosis of CRPS/RSD.

The hearing officer reviewed the record and medical evidence and decided what facts were established. An appeals-level body is not a fact finder, and does not normally pass upon the credibility of witnesses or substitute its own judgment for that of the trier of fact, even if the evidence would support a different result. National Union Fire Insurance Company of Pittsburgh, Pennsylvania v. Soto, 819 S.W.2d 619, 620 (Tex. App.-El Paso 1991, writ denied). When reviewing a hearing officer's decision for factual sufficiency of the evidence we should reverse such decision only if it is so

against the weight and preponderance of the evidence as to be clearly wrong or manifestly unjust, and we do not find it to be so in this case. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **PACIFIC EMPLOYERS INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**ROBIN M. MOUNTAIN
6600 CAMPUS CIRCLE DRIVE EAST, SUITE 300
IRVING, TEXAS 75063.**

Margaret L. Turner
Appeals Judge

CONCUR:

Daniel R. Barry
Appeals Judge

Edward Vilano
Appeals Judge